

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No.: 3:18-CR-172-KAC-DCP
)
MICHAEL A. LAPAGLIA,)
)
Defendant.)

ORDER

New information that may impact the Defendant's sentence was brought to the Court's attention days before the Defendant's previously-scheduled sentencing hearing. As a result, the Court delayed the hearing to permit further investigation by the Parties. Today, the United States Probation Office (USPO) filed a Third Revised "Presentence Investigation Report" (PSR) [Doc. 61] and addendum [Doc. 60].

The Defendant pled guilty to the charged offenses in November 2018. The USPO filed the initial PSR in March 2019 [Doc. 13], the First Revised PSR in October 2019 [Doc. 21], and the Second Revised PSR in March 2021 [Doc. 53]. In addition, the Parties initially filed their sentencing memoranda and motions for departures and/or variances in mid-March 2021 [Docs. 48-51] prior to (1) the Court's modification of the Defendant's terms of pretrial release due to his violation of pretrial conditions [Doc. 57], (2) [REDACTED]
[REDACTED], and (3) [REDACTED]
[REDACTED].

To ensure that the Defendant's rights are adequately protected and that the Parties can appropriately address the information that is relevant to the Defendant's sentencing, the Court is resetting the briefing schedule for sentencing, along with the sentencing date. The following dates and deadlines are hereby **RESCHEDULED** and **SET** to facilitate efficient preparation and presentation of this case for sentencing:

- (1) Pursuant to Local Rule 83.9(c), all Parties **must** file with the Court any and all objections they may have to the Third Revised PSR, or a Notice of No Objections, by **Tuesday, May 4, 2021**. If an evidentiary hearing is required on any objections to the Report, the Party must expressly request the hearing at the time of filing any objections or response. ***Any objection not specifically raised in this filing, whether previously raised or not, is waived.***
- (2) The Parties **must** file with the Court any and all responses to objections raised by **Tuesday, May 11, 2021**.
- (3) By **Thursday, May 20, 2021**, the Probation Officer **must** file an addendum to the Third Revised PSR noting any objections that the Parties raised to the Third Revised PSR and whether a change was made to the Third Revised PSR in response to such objections.
- (4) Pursuant to Local Rule 83.9(j), the Government shall file any motion pursuant to 18 U.S.C. § 3553(e) or section 5K1.1 of the Sentencing Guidelines, or for a sentence below the statutory mandatory minimum, by **Thursday, May 20, 2021**.
- (5) Pursuant to Local Rule 83.9(j), any other motion for downward or upward departure or variance and all sentencing memoranda must be filed by **Thursday,**

May 13, 2021. The Parties are **ORDERED** to raise *any and all* outstanding issues related to sentencing, whether previously raised or not, in these filings. *Failure to timely raise an argument, whether previously raised or not, may result in a denial of a request for a departure or variance.*

(6) The sentencing hearing is **RESCHEDULED** for **Thursday, May 27, 2021 at 1:00 PM.**

The Government's pending motion for a variance [Doc. 48] is **DENIED** as **MOOT** with leave to refile in accordance with this Order.

IT IS SO ORDERED.

s/ Katherine A. Crytzer
KATHERINE A. CRYTZER
United States District Judge